

SUPPORT FOR THE AMENDMENTS

Claim 7 has been amended.

The amendment of Claim 7 is supported by the originally filed claims and the specification at pages 3-21.

No new matter has been added by the present amendment.

REMARKS

Claims 1-7 are pending in the present application.

The rejection of Claims 1-2 and 4-6 under 35 U.S.C. §102(e) over Nakayama et al (U.S. 6,767,853) is traversed.

In the paragraph 5 of the Office Action, the Examiner alleges: “The elastic fibers (A), and bundles formed therefrom, are analogous to the claimed microfine bundles (A) comprising 10 to 100 microfine fibers.” The Examiner further states in the same paragraph that: “The fiber bundles (B) are analogous to the claimed microfine fiber bundle (B).” Applicants respectfully disagree for the following reasons.

In column 3, lines 28-45, Nakayama et al (US 6,767,853) disclose:

... comprising microfine fiber bundles, *each* of which is composed of... microfine fibers (A) comprising an elastic polymer ... and microfine fibers (B) comprising a non-elastic polymer (*emphasis added*)

Clearly, *each* bundle of Nakayama et al contains both the elastic microfine fibers (A) and the non-elastic microfine fibers (B), namely, the elastic microfine fibers (A) and the non-elastic microfine fibers (B) are simultaneously included in a single fiber bundle. Therefore, contrary to the Examiner's assertion, the fibrous substrate of Nakayama et al is made of a single kind of fiber bundle, *not* made of the fiber bundle (A) and the fiber bundle (B) as alleged by the Examiner.

This disclosure of Nakayama et al is in direct opposition to the claimed invention in which the leather-like sheet substrate is formed from the microfine fiber bundle (A) of elastic fibers and the microfine fiber bundle (B) of non-elastic fibers. Specifically, the claimed sheet substrate is composed of *two kinds of fiber bundles*.

As evident from column 4, line 63, et seq. of Nakayama et al, any of the microfibrillar fibers has a cross-sectional structure in which both the elastic microfibrillar fibers (A) and the non-elastic microfibrillar fibers (B) are present. By converting such microfibrillar fibers into microfibrillar fibers, bundles of single kind are formed in each of which each elastic microfibrillar fiber (A) is encircled by the non-elastic microfibrillar fibers (B) (column 3, lines 42-44 of Nakayama et al).

However, in the claimed invention, the microfibrillar fiber-forming fiber (A') is produced by spinning an elastic polymer (island component) and a sea component polymer (page 16, lines 9-12). The microfibrillar fiber-forming fiber (B) is produced by spinning a non-elastic polymer (island component) and a sea component polymer (page 16, lines 26-29). The microfibrillar fiber-forming fiber (A') and the microfibrillar fiber-forming fiber (B') are blended with each other, and then, made into a web. Thereafter, the microfibrillar fiber-forming fiber (A') and the microfibrillar fiber-forming fiber (B') are converted respectively into the elastic fiber bundle (A) and the non-elastic fiber bundle (B). (See pages 16-20 of the present specification).

In the sheet substrate resulted from such a production method, it would appear that the elastic fibers and the non-elastic fibers respectively form different kinds of bundles, i.e., the elastic fiber bundle (A) and the non-elastic fiber bundle (B). In addition, the elastic fibers and the non-elastic fibers in the claimed sheet substrate exist in a configuration which is quite distinct from that of Nakayama et al, where the non-elastic fibers are required to encircle each elastic fiber.

From the foregoing, Applicants submit that the leather-like sheet of the present invention is clearly distinguished from the fibrous substrate of Nakayama et al at least with

respect to the structure of bundles. Therefore, Applicants submit that the claimed invention is not be anticipated by Nakayama et al.

At best, Nakayama et al may be used in making an obviousness rejection. However, such a rejection would be unfounded because both the present invention and the invention as described by Nakayama et al were commonly owned at the time the present invention was made.

Applicants point to MPEP §706.02(l)(2), which states:

"Applications and references (whether patents, patent applications, patent application publications, etc.) will be considered by the examiner to be owned by, or subject to an obligation of assignment to the same persons, at the time the invention was made, if the applicant(s) or an attorney or agent of record makes a statement to the effect that the application and the reference were, at the time the invention was made, owned by, or subject to an obligation of assignment to, the same person."

Applicants note that the present application has been assigned to Kuraray Co. Ltd. by Assignment. The assignment for the present application is recorded at reel 015600 / frames 0643-0645 on July 22, 2004. Nakayama et al published on July 27, 2004 and, as indicated by the face of the patent, was also assigned to Kuraray Co. Ltd. on July 18, 2002 and is recorded at reel 013100 / frames 0511-0513. Applicants submit that the present invention and the invention as described by Nakayama et al were, at the time the present invention was made, owned by, or subject to an obligation of assignment to, the same person/entity.

35 U.S.C. §103(c) states:

"Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person."

Since Applicants have properly established common ownership above, Applicants request that the Examiner acknowledge that Nakayama et al is no longer available as a

reference for purposes of obviousness under the above-mentioned provisions granted to Applicants by 35 U.S.C. §103(c) and MPEP §706.02(l)(2).

In view of the foregoing, Applicants request withdrawal of the rejection over the disclosure of Nakayama et al.

The objection to Claim 3 as being dependent upon a rejected base claim is believed to be obviated by the arguments above. Therefore, it is requested that this ground of objection be withdrawn.

Finally, with respect to the non-elected method claims, Applicants remind the Examiner that MPEP §821.04 states:

...if applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined.

Accordingly, upon a finding of allowability of the elected product claims, Applicants respectfully request rejoinder of the withdrawn process claims that depend therefrom.

Applicants submit that the present application is now in condition for allowance. Early notification of such action is earnestly solicited.

Respectfully submitted,

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